

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**TO:** John H. Robertus  
Executive Officer

**FROM:** Jeremy Haas  
Environmental Scientist  
Watershed Protection Northern Unit

**DATE:** May 3, 2005

**SUBJECT:** Response to Written Comments Regarding the Request to Rescind Cleanup and Abatement Order No. 99-211

On March 22, 2005 the Regional Board notified interested persons of the request to rescind Cleanup and Abatement Order No. 99-211 and accepted written comments for 30 days. Four written comments were received during the comment period.

1. Ms. Devora Hertz, Laguna Beach resident
2. Surfrider Foundation, Laguna Beach Chapter
3. Clean Water Now Foundation, Laguna Beach
4. South Laguna Civic Association

**I. Response to comments from Ms. Devora Hertz**

Comment Summary: This commenter questions the purpose of the Cleanup and Abatement Order (CAO) and the factors for evaluating the response by the Dischargers. The commenter is concerned that rescinding the Cleanup and Abatement Order would reduce the diligence of the Permittees toward reducing bacteria discharges from the J03P02 storm drain.

Response to Comment: The CAO was issued in response to data indicating elevated discharges of bacteria from the J03P02 storm drain outfall. It was issued at a time when the stormwater management programs of the Permittees were not likely to adequately address the impairment. Since that time, the Regional Board issued the 3<sup>rd</sup>-Term Municipal Storm Water NPDES Permit (Order No. R9-2002-01), which required an increased level of effort for preventing and responding to water quality impairments caused by storm drain discharges. In response, municipal storm water programs have substantially improved, in part based on the findings from the response to the CAO. If the CAO is rescinded, the Regional Board will still require a high level of diligence from the Permittees per Order R9-2002-01.

## **II. Response to comments from the Surfrider Foundation**

Comment Summary: This commenter supports the request to rescind the Cleanup and Abatement Order. In addition, the commenter cautions against applying results from the recent Mission Bay epidemiological study to other watersheds.

Response to Comment: Comment noted.

## **III. Response to comments from the Clean Water Now Coalition**

Comment Summary: This commenter agrees that the CAO is redundant to other Regional Board actions in the watershed. This commenter is concerned, however, that discharges still do not meet REC-1 (contact recreation) or REC-2 (non-contact recreation) standards and that human sources of indicator bacteria and pathogens have not been fully evaluated in the J03P02 watershed. The commenter suggests that specific reduction targets with a time schedule and subsequent administrative civil liability assessments for non-compliance would have been a more effective enforcement approach.

Response to Comment: Comment noted. With respect to human pathogens, a combination of laboratory genetic testing and phenotypic (Antibiotic Resistance Analysis) testing has been performed, in addition to surveillance of the municipal stormwater and sanitary sewer lines. The Permittees reported that it is not possible to detect a leak of 5 gallons or less in the sanitary sewer system. Although two samples did test positive for human adenovirus, the studies concluded that sewage is an unlikely source of contamination at J03P02 sub-watershed.

## **IV. Response to comments from the South Laguna Civic Association**

Comment Summary: This commenter requests a hearing on the request to rescind the CAO. In addition, the commenter suggests that management practices regarding reclamation of dry-weather runoff or diversion to the sewer could be implemented to prevent discharges of elevated bacteria concentrations.

Response to Comment: Comment noted.